

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MAHTAB AKHTER,

File No. 046-964-601,

Plaintiff,

v.

MICHAEL MUKASEY, U.S. Attorney General,

Department of Homeland Security;

EMILIO T. GONZALES, Director of

U.S. Citizenship & Immigration Services,

Defendants.

FILED
DECEMBER 18, 2007
CASE NO. **MICHAEL W. DOBBINS**
CLERK, U.S. DISTRICT COURT

PH JUDGE
07 C 7128

JUDGE GRADY
MAGISTRATE JUDGE MASON

PETITION FOR HEARING ON NATURALIZATION
APPLICATION UNDER 8 U.S.C. § 1447(b)

NOW COMES the Plaintiff, Mahtab Akhter, by and through his attorney, Bonita B. Hwang Cho, Law Offices of Cheng, Cho & Yee, P.C., and complaining of Defendant, states as follows:

1. Plaintiff is a lawful permanent resident of the United States who is statutorily eligible to naturalize and become a United States citizen. Plaintiff's application for naturalization has been unlawfully delayed by Defendant since December 6, 2004. As a consequence, this Court has jurisdiction to adjudicate Plaintiff's naturalization application and to grant him naturalization pursuant to 8 U.S.C. § 1447(b).

JURISDICTION

2. This Court has jurisdiction over the subject matter of this case pursuant to 8 U.S.C. § 1447(b) (jurisdiction over naturalization application), 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201 (declaratory judgment).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e) and 8 U.S.C. § 1447(b) because Plaintiff resides within the district of this court.

PARTIES

4. Plaintiff Mahtab Akhter (“Akhter”) is a lawful permanent resident of the United States from Pakistan. His N-400 Application for Naturalization was filed with U.S. Citizenship and Immigration Services (“USCIS”) and he was interviewed on said application on December 6, 2004. Plaintiff’s application is still pending.

5. Defendant Michael Mukasey is the Attorney General of the United States.

6. Defendant Emilio T. Gonzalez is the Director of USCIS, and he is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of USCIS, an agency under the Department of Homeland Security, including the approval and denial of immigration benefits. Specifically, Mr. Gonzalez is responsible for the grant or denial of naturalization applications under the Immigration and Nationality Act implementing regulations. See e.g. 8 U.S.C. § 1421, 8 C.F.R. § 310 and 8 C.F.R. § 316.3.

FACTS

7. Plaintiff, a lawful permanent resident from Pakistan, submitted an N-400 Application for Naturalization to USCIS, upon which he was interviewed and examined on December 6, 2004. See Exhibit A.

8. Plaintiff has made numerous inquiries on his case to his state Senator and Congressman.

9. Plaintiff has made inquiries on his case to USCIS.

10. It has been almost 3 years since Plaintiff Akhter’s interview, and no decision has yet been made on his N-400 Application, even though Akhter is entirely

eligible for naturalization.

CLAIMS

11. Much more than 120 days have passed since the initial interview, and Defendant has made no decision on Plaintiff's application in violation of 8 U.S.C. § 1447(b).

12. Defendant's failure to make a determination on Plaintiff's application within the 120 day statutory period entitles Plaintiff to bring this matter before this Court for a hearing pursuant to 8 U.S.C. § 1447(b).

REQUEST FOR RELIEF

13. Plaintiff seeks de novo judicial determination of his naturalization application and a grant of naturalization from this Court. In the alternative, Plaintiff seeks that the Court remand the application to USCIS with an order to immediately adjudicate his application.

WHEREFORE, Plaintiff prays that this Court:

1. Grant this petition and enter a judgment granting Plaintiff's naturalization and ordering that he is a naturalized citizen of the United States;
2. In the alternative, remand the application to USCIS with an order that it adjudicate the application within 15 days of said order;
3. Grant attorneys' fees and costs under the Equal Access to Justice Act;
4. Grant such other and further relief as is fit and proper.

Respectfully submitted,
MAHTAB AKHTER

By: s/ Bonita B. Hwang Cho
One of his attorneys

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CERTIFICATE OF SERVICE

I, Bonita B. Hwang Cho, the attorney, hereby certify that on the 18th day of December, 2007 a Petition for Hearing was served to:

Michael Mukasey, U.S. Attorney General
c/o Office of the General Counsel
U.S. Department of Homeland Security
Washington, D.C. 20528

and

Emilio Gonzales, Director of U.S. CIS
c/o Office of the General Counsel
U.S. Department of Homeland Security
Washington, D.C. 20528

and

Patrick J. Fitzgerald
U.S. Attorney
Northern District of Illinois
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s/ Bonita B. Hwang Cho

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